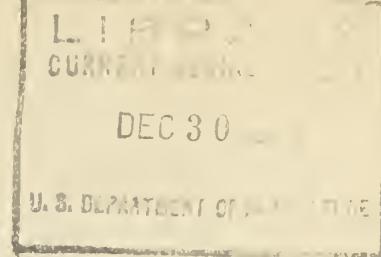


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C O M P L I A N C E

M A N U A L

on

FOOD DISTRIBUTION ORDER NO. 8

(Frozen Dairy Foods and Mix)

-----V-----

UNITED STATES DEPARTMENT OF AGRICULTURE
FOOD DISTRIBUTION ADMINISTRATION
MIDWEST REGION
5 South Wabash Avenue
Chicago 3, Illinois

2324 (30)

NOV 7 1944

COMPLIANCE MANUAL

Food Distribution Order No. 8

Frozen Dairy Foods and Mix

I N D E X

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2. Digest of FDO No. 8
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Industry - FDA Meetings

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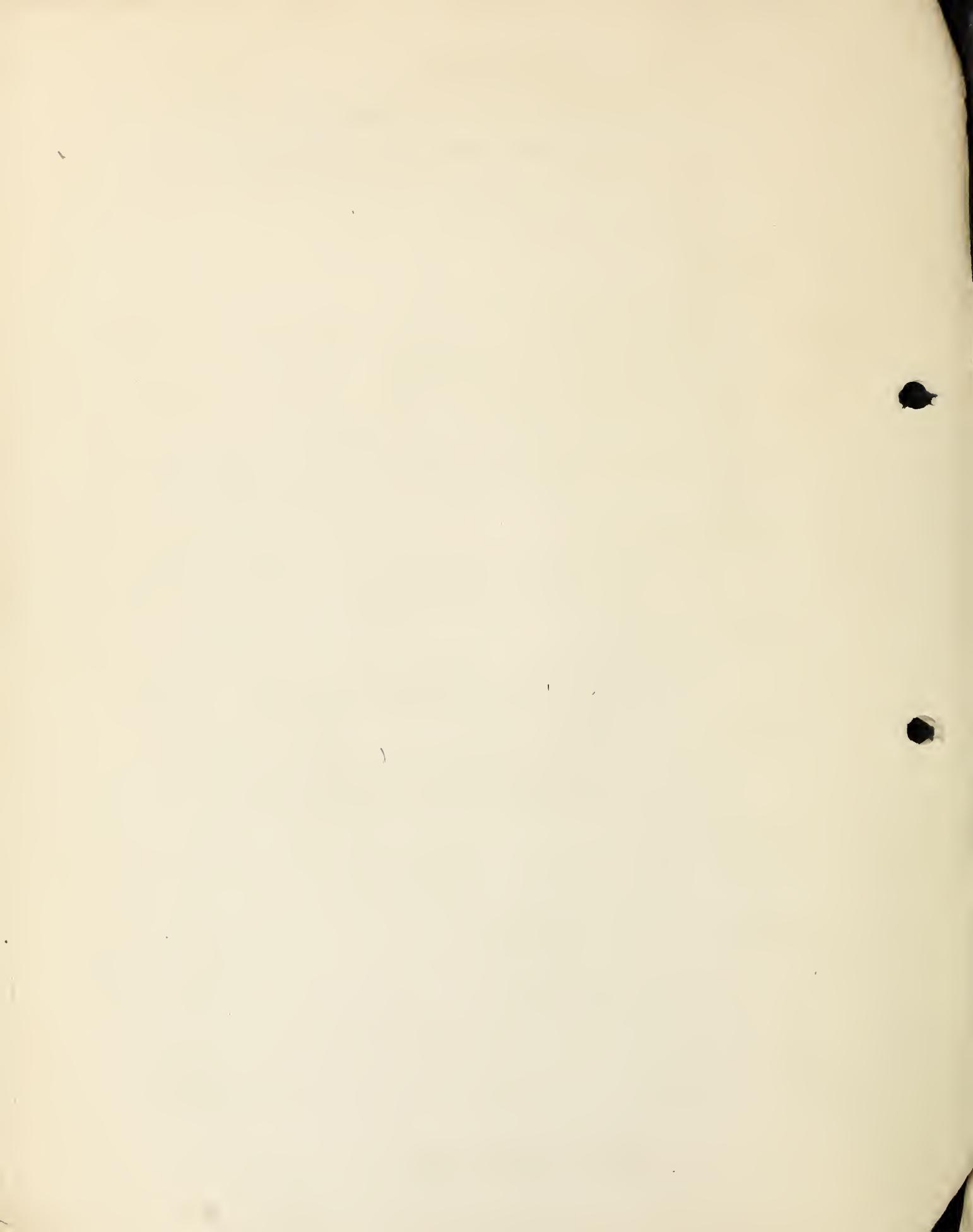
1. The Food Distribution Administration
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Education Compliance Report Forms

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Note: From time to time changes and additional material will be forwarded to you for insertion in this loose-leaf Manual.

Prepared December, 1943
Revised January, 1944



From: Food Distribution Administration
5 S. Wabash Avenue
Chicago 3, Illinois

F.D.O. #8
AMEND. #1

TITLE 7 - AGRICULTURE
CHAPTER XI - WAR FOOD ADMINISTRATION
/Food Distribution Order No. 8, Am. No. 1/
Part 1401 - Dairy Products

RESTRICTIONS ON PRODUCTION OF FROZEN DAIRY FOODS AND MIX

Food Distribution Order No. 8 (8 F. R. 953), issued by the Secretary of Agriculture on January 19, 1943, is hereby amended to read as follows:

§ 1401.31 Frozen dairy foods and mix, limitations with respect to the production thereof. (a) Definitions. When used in this order, unless otherwise distinctly expressed or manifestly incompatible with the intent hereof:

(1) The term "processor" means any person engaged in the manufacture of frozen dairy foods or mix.

(2) The term "frozen dairy foods" means any frozen or partially frozen food products (including ice cream, French ice cream, ice milks, milk ices, frozen custards, sherbets, and other similar preparations) containing milk solids and sugar, together with stabilizers, extracts, fruits, nuts, coloring, or flavoring materials.

(3) The term "mix" means any liquid or dried unfrozen preparation (including ice cream mix, ice cream powders, milk ice mix, ice milk mix, milk shake mix, and other similar preparations), containing milk solids and sugar, that is used directly in the freezing of a frozen dairy food.

(4) The term "ice cream" means any frozen dairy food containing 8 percentum or more (by weight) of milk fat included in 14 percentum or more (by weight) of total milk solids.

(5) The term "person" means any individual, partnership, association, business trust, corporation, or any organized group of persons, whether incorporated or not.

(6) The term "governmental agency" means (i) the Armed Services of the United States (for the purposes of this order, including, but not restricted to, the United States Army Post Exchanges, United States Navy Ships' Service Departments; and United States Marine Corps Post Exchanges); (ii) the War Shipping Administration; (iii) the Veterans Administration; and (iv) any other instrumentality or Agency designated by the War Food Administrator. The term "governmental agency" also includes any contract school or ship operator, as defined in Food Distribution Regulation 2 (8 F. R. 7523), purchasing frozen dairy foods or mix in accordance with said Food Distribution Regulation 2.

(7) The term "Armed Services of the United States" means the Army, the Navy, the Marine Corps, or the Coast Guard of the United States.

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(8) The term "Director" means the Director of Food Distribution, War Food Administration.

(9) The term "base period" means the period from December 1, 1941, to November 30, 1942, both dates inclusive.

(10) The term "allocation period" means any period specified by the Director, to which quotas, reports, and other regulations herein provided are applicable.

(b) Restrictions on production of frozen dairy foods and mix.

(1) No processor, during any allocation period specified by the Director pursuant hereto, may utilize in the production of frozen dairy foods or mix more than 65 percentum of the total milk solids used by the respective processor in the production of such products, respectively, during the corresponding portion of the base period, exclusive of all such products processed for, or sold to, a governmental agency by such processor during such base period. The milk solids used in frozen dairy foods or mix manufactured for or delivered to or for the account of, a governmental agency, shall be excluded from the amount of milk solids to which the aforesaid 65 percentum is applicable.

(2) The maximum total milk solids content of frozen dairy foods manufactured, sold, or delivered by any person, after the effective time hereof, shall be 22 percentum (by weight).

(3) The milk solids-not fat (sometimes referred to as serum solids) content of ice cream or ice cream mix manufactured, sold, or delivered by any person after the effective time hereof, shall not exceed 80 percentum (by weight), of the milk fat content of such ice cream and ice cream mix, respectively.

(4) Frozen dairy foods other than ice cream and mixes for frozen dairy foods other than ice cream are exempt from the provisions of (b) (3) hereof, but no processor, during any allocation period specified by the Director pursuant hereto, shall use in the production of such products more than the larger of the two following quantities: (i) 10 percentum (by weight) of the total milk solids available to the respective processor under the provisions of (b) (1) hereof, or (ii) the amount (by weight) of milk solids used by the respective processor for the production of such products in the corresponding portion of the base period within and subject to the limitations imposed by (b) (1) hereof, (5) The Director may, at any time, increase or decrease the percentage, designated in (b) (4) (i) hereof, of milk solids available to processors which may be used for frozen dairy foods other than ice cream or mixes. Such change of percentage may be made applicable by the Director to any area or areas where, in his opinion, the demand and production conditions warrant such a change.

(c) Governmental agency exemption. Frozen dairy foods or mix manufactured for, or delivered to, or for the account of, a governmental agency shall be exempt from the provisions of paragraphs (b) (1) and (b) (4) hereof.

(d) Equitable distribution. Each processor shall make equitable distribution among those persons supplied by such processor during the base period of the frozen dairy foods and mix manufactured by such processor.

(e) Option with respect to multiple plant operations. Upon approval by the Director of a written request from a processor having multiple plant operations, such plants shall be considered separately in the application of the provisions hereof.

(f) Records and reports. The Director shall be entitled to obtain such information from, and require such reports and the keeping of such records by, any person, as may be necessary or appropriate, in his discretion, to the enforcement or administration of the provisions of this order, subject to the approval of the Bureau of the Budget pursuant to the Federal Reports Act of 1942.

(g) Audits and inspections. The Director shall be entitled to make such audit or inspection of the books, records, and other writings, premises or stocks of frozen dairy foods and mix, of any person, and to make such investigations, as may be necessary or appropriate, in his discretion, to the enforcement or administration of the provisions of this order.

(h) Territorial scope. Any processor doing business in one or more of the forty-eight States or the District of Columbia is subject to the provisions hereof, but the provisions hereof shall not apply to any processor doing business exclusively in any Territory or Possession of the United States.

(i) Petition for relief from hardship. Any person affected by this order, who considers that compliance herewith would work an exceptional and unreasonable hardship on him, may file a petition for relief with the Regional Director, Food Distribution Administration, War Food Administration, serving the area (8 F.R. 9315) in which such person resides or does business. Petitions for such relief shall be in writing, and shall set forth all pertinent facts and the nature of the relief sought. If such person is dissatisfied with the action taken on the petition by the Regional Director, he may, by requesting the Regional Director therefor, secure a review of such action by the Director. The Director may, after such review, take such action as he deems appropriate, and such action shall be final.

(j) Communications. All reports required to be filed hereunder shall be addressed in conformity with the instructions specified in the respective form required to be submitted. All other communications concerning this order shall, unless instructions to the contrary are issued by the Director, be addressed to the Regional Director, Food Distribution Administration, War Food Administration, serving the area (8 F. R. 9315) in which the person affected by this order resides or does business.

(k) Violations. The War Food Administrator may, by suspension order, prohibit any person who violates any provision of this order from receiving, making any deliveries of, or using frozen dairy foods or mix, or any other material subject to priority or allocation control by the War Food Administrator, and may recommend that any such person be prohibited from receiving, making any deliveries of, or using materials subject to the priority or allocation control of other governmental agencies. In addition, any person who wilfully violates any provision of this order is guilty of a crime and may be prosecuted under any and all applicable laws. Further, civil action may be instituted to enforce any liability or duty created by, or to enjoin any violation of, any provision of this order.

(1) Delegation of authority. The administration of this order and the powers vested in the War Food Administrator, insofar as such powers relate to the administration of this order, are hereby delegated to the Director. The Director is authorized to redelegate to any employee of the United States Department of Agriculture any or all of the authority vested in him by this order.

(m) Effective date. This order shall become effective 12:01 a.m., e.w.t., September 6, 1943. With respect to any violation of Food Distribution Order No. 8, prior to the effective time hereof, said food distribution order shall be deemed to continue in full force and effect for the purpose of sustaining any proper suit, action, or other proceeding with respect to any such violation.

(E.O. 9280, 7 F.R. 10179; E.O. 9322, 8 F.R. 3807; E.O. 9334, 8 F.R. 5423).

Issued this 1st day of September 1943.

/s/ Marvin Jones

War Food Administrator

FOOD DISTRIBUTION ORDER NO. 8.1

Frozen Dairy Foods and Mix

Allocation Periods Named For Ice Cream Production

Allocation periods under Food Distribution No. 8, affecting the use of milk and milk products in frozen dairy foods, will be on a month-by-month basis. The order became effective February 1, 1943.

Reports and communications regarding the order should be sent to: W. Bruce Silcox, Administrator, FDO-8, Food Distribution Administration, United States Department of Agriculture, Washington, D. C.

Part 1401 - Dairy Products
SPECIFICATION OF ALLOCATION PERIODS

Pursuant to the authority vested in me by Food Distribution Order No. 8, dated January 19, 1943, issued pursuant to Executive Order No. 9280, dated December 5, 1942, and to effectuate the purposes of such order, IT IS HEREBY ORDERED as follows:

§ 1401.32 Specification of Allocation Periods.

Each calendar month, beginning on February 1, 1943, is hereby specified as an allocation period to which quotas, percentages, reports, and other regulations are applicable, in accordance with the provisions in § 1401.31 (a) (8) and § 1401.31 (b) of said Food Distribution Order No. 8, dated January 19, 1943.

(E.O. 9280, 7 F.R. 10179; F.D.O. No. 8, 8 F.R. 953.)

Issued this 1st day of February 1943.

/s/ Roy F. Hendrickson

Director of Food Distribution

UNITED STATES DEPARTMENT OF AGRICULTURE
Food Distribution Administration
Room 1618 - 5 S. Wabash Ave.
Chicago 3, Illinois

FOOD DISTRIBUTION ORDER 8-2

PART 1401 - DAIRY PRODUCTS

FROZEN DAIRY FOODS AND MIX

Pursuant to the authority vested in me by Food Distribution Order No. 8, issued by the Secretary of Agriculture on January 19, 1943, as amended (8 F.R. 953, 12163), and to effectuate the purposes thereof, it is hereby amended as follows:

§ 1401.6 Increased percentage for certain frozen dairy foods sold and delivered in California--(a) Definitions. When used herein, unless otherwise distinctly expressed or manifestly incompatible with the intent hereof:

(1) Each term defined in Food Distribution Order No. 8 as amended, shall, when used herein, have the same meaning as set forth in said Food Distribution Order No. 8, as amended.

(2) The term "order" means Food Distribution Order No. 8 issued by the Secretary of Agriculture on January 19, 1943, as amended.

(b) Increased percentage. Pursuant to the provisions of § 1401.31 (b) (5) of the order, the percentage designated in § 1401.31 (b) (4) (i) of the order is hereby increased to 20 percent for each processor who sells and delivers in the State of California all of the frozen dairy foods produced by him. Each processor who sells and delivers frozen dairy foods in California and another state or states may apply the aforesaid 20 percent to that portion of his quota which was based upon the production of frozen dairy foods for sale and delivery in the State of California during the base period; but on the remaining portion which was used for the production and sale of frozen dairy foods outside the State of California the percentage shall be 10. The increased percentage granted herein shall be applied only with respect to frozen dairy foods other than ice cream and mixes for frozen dairy foods other than ice cream which are sold in the State of California.

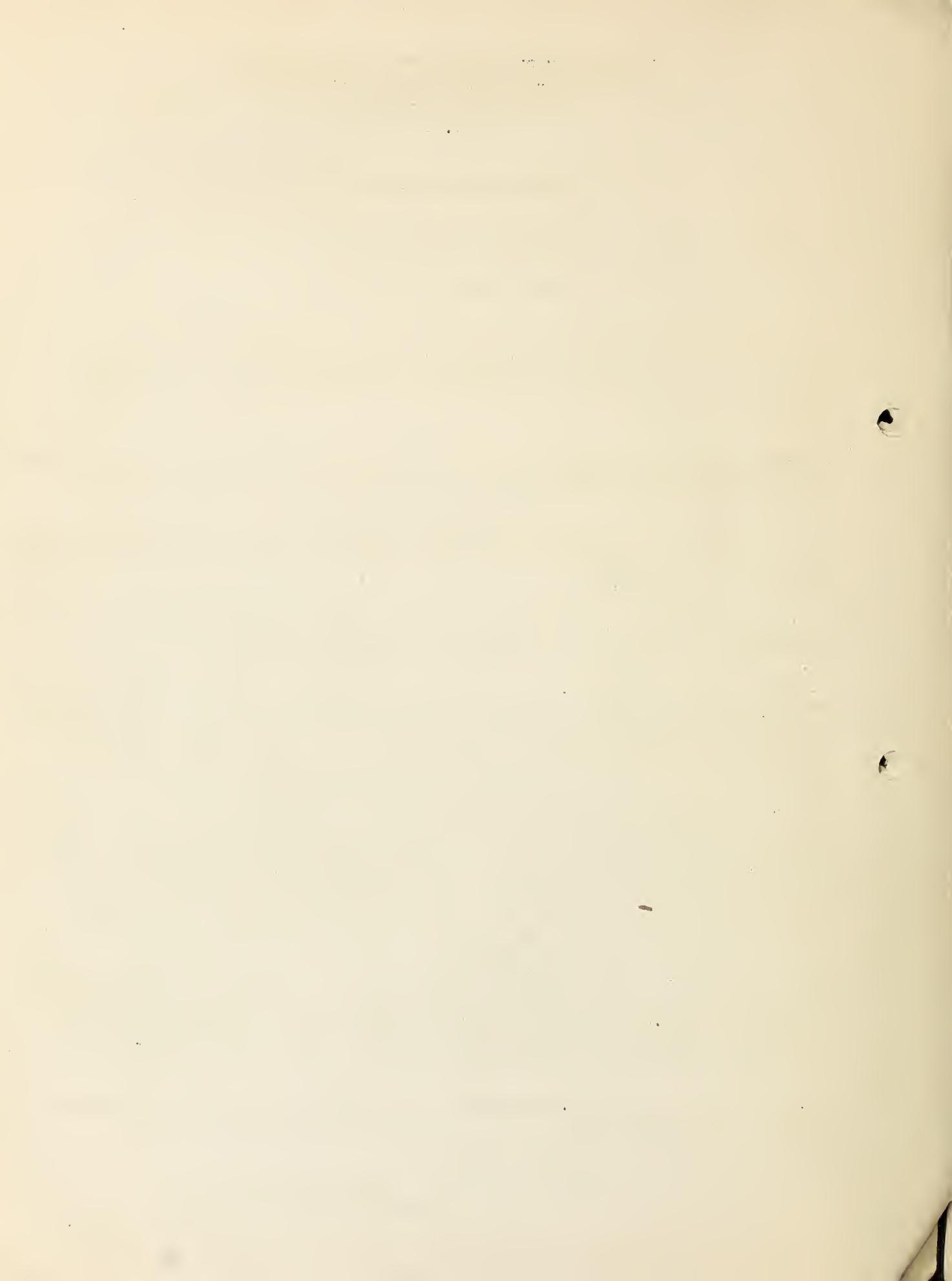
(c) Effective date: The provisions hereof shall become effective at 12:01 a.m. p. w. t. November 1, 1943. With respect to violations, rights accrued, or liabilities incurred prior to the effective time hereof, the percentage specified in § 1401.31 (b) (4) (i) of the order shall be deemed to be in effect for the purpose of sustaining any proper suit, action, or other proceeding with respect to any such violation, right, or liability.

(E. O. 9280, 7 F.R. 10179; E.O. 9322, 8 F.R. 3807; E.O. 9334, 8 F.R. 5423; FDO 8, 8 F.R. 953, 12163)

Issued this 4th day of November 1943.

Roy F. Hendrickson
Director of Food Distribution

2267 (1)



(See attached Official copy of the Order for full details)

ISSUANCE: January 19, 1943; Effective February 1, 1943;
Amendment No. 1, September 1, 1943, Effective
September 6, 1943. Amendment No. 2, (related
only to State of California), November 4, 1943,
Effective November 1, 1943.

I.

RESTRICTIONS ON PRODUCTION AND THE DISTRIBUTION OF ICE CREAM

(See definition of "ice cream")

ORDER
REFERENCE

(b) (1) TOTAL MILK SOLIDS

Processor of ice cream may not use during any allocation period more than 65 per centum of the total milk solids used by him during the corresponding portion of the base period. (See definition of "processor")

(a) (9) BASE PERIOD

December 1, 1941, to November 30, 1942, inclusive.

Amend. 1 ALLOCATION PERIODS

Each calendar month, beginning February 1, 1943, is an allocation period to which the above 65 per centum applies.

(c) GOVERNMENTAL AGENCY EXEMPTION

Milk solids used in the production of ice cream manufactured for or delivered to a governmental agency shall be excluded from the restrictions contained herein. (See definition of "governmental agency")

(b) (3) TOTAL MILK SOLID CONTENT

The total milk solid content of ice cream manufactured, sold or delivered by any person shall not exceed 22 per centum by weight.

(b) (3) MILK SOLID NOT FAT RATIO

The milk solids, not fat, content of ice cream manufactured, sold or delivered by any person shall not exceed 80 per centum by weight of the milk fat content of such ice cream.

ORDER
REFERENCE

(d) EQUITABLE DISTRIBUTION

Each processor of ice cream shall make equitable distribution among those persons supplied by such processor during the base period. (See interpretations.)

(e) MULTIPLE PLANT OPERATIONS

Individual plants of the processors having multiple plant operations may be considered separately, upon the approval of the Director in the application of the provisions of this Order.

II.

MILK SOLIDS AVAILABLE FOR FROZEN DAIRY FOODS
OTHER THAN ICE CREAM.

(See definition of "frozen dairy foods")

(b) (4) MILK SOLID QUOTA OR MANUFACTURE QUOTA

Processors of frozen dairy foods, other than ice cream and mixes for frozen dairy foods other than ice cream, may use in the production of such products -

(Milk Solid Quota) not more than 10 per centum by weight of the total milk solids available to the respective processor by virtue of existing limitations on the use of milk solids by processors of ice cream and mixes,

or

(Manufacture Quota) the amount by weight of milk solids used by the respective processor for the production of such products in the corresponding portion of the base period within and subject to the 65 per centum limitation on the use of milk solids by processors of ice cream and mixes, whichever is larger.

(a) (9) BASE PERIOD

December 1, 1941, to November 30, 1942, inclusive.

Amend. 1 ALLOCATION PERIODS

Each calendar month, beginning February 1, 1943, is an allocation period to which the above 65 per centum applies.

ORDER
REFERENCE

(c) GOVERNMENTAL AGENCY EXEMPTION

Milk solids used in the production of frozen dairy foods other than ice cream and mixes for frozen dairy foods other than ice cream manufactured or delivered to a governmental agency shall be excluded from the restrictions contained herein. (See definition of "governmental agency")

(d) EQUITABLE DISTRIBUTION

Each processor shall make equitable distribution among those persons supplied by such processor during the base period.

(e) MULTIPL PLANT OPERATIONS

Individual plants of a processor having multiple plant operations may be considered separately, upon approval by the Director, in the application of the provisions of the Order.

III.

RESTRICTIONS ON THE PRODUCTION AND DISTRIBUTION OF "MIX".

(See definition of "mix")

(a) (1) TOTAL MILK SOLIDS

Processors of mix may not use during any allocation period more than 65 per centum of the total milk solids used by him during the corresponding portion of the base period. (See definition of "processor")

(a) (9) BASE PERIOD

December 1, 1941, to November 30, 1942, inclusive.

Amend. 1 ALLOCATION PERIODS

Each calendar month beginning February 1, 1943, is an allocation period to which the above percentage applies.

(c) GOVERNMENTAL AGENCY EXEMPTION

Milk solids used in the production of mix manufactured for, or delivered to a governmental agency shall be excluded from the restrictions contained herein. (See definition of "governmental agency.")

ORDER
REFERENCE

(b) (3) MILK SOLID NOT FAT RATIO

Milk solid, not fat, content of ice cream mix manufactured, sold or delivered by any person shall not exceed 80 per centum by weight of the milk fat content of such ice cream mix.

(d) EQUITABLE DISTRIBUTION

Each processor shall make equitable distribution among those persons supplied by such processor during the base period.

(e) MULTIPLE PLANT OPERATIONS

Individual plants of a processor having multiple plant operations may be considered separately upon approval by the Director in the application of the provisions of this Order.

IV.

OTHER PROVISIONS OF FDO 8
FROZEN DAIRY FOODS AND MIX

(f) RECORDS AND REPORTS

The Director may require such reports and the keeping of such records which in his discretion may be deemed necessary.

(g) AUDITS AND INSPECTIONS

The Director shall be entitled to make such audits or inspections of the books, records, premises, or stocks of frozen dairy foods and mix of any person, and to make such investigations which in his discretion may be deemed necessary.

(i) PETITION FOR RELIEF

Any person affected by this Order may apply in writing to the Regional Director for relief from an exceptional or unreasonable hardship imposed by this Order.

(k) VIOLATIONS

Violators may be subject to suspension orders and/or civil or criminal actions.

DIGEST OF PERTINENT INTERPRETATIONS AND POLICIES

ISSUED IN CONNECTION WITH RESTRICTIONS OF
FOOD DISTRIBUTION ORDER NO. 8, AS AMENDED

Note: For confidential use of FDA representatives only.

This digest is furnished to provide you with interpretations received from our Washington Office pertaining to questions which have arisen from Food Distribution Order No. 8. (The date of each interpretation is in parenthesis.)

Note: Official interpretations and policies are issued only by the Administrator of the Order. Any interpretations requested which cannot be answered exactly as provided herein, should be referred to the Regional Office for handling.

ORDER
REFERENCE

(b) (1) QUOTA RESTRICTION

Frozen Dairy Foods Quotas and Mix Quotas considered separately.

In accordance with Section (b) (1) of the Order, the quotas of frozen dairy foods and mix are considered separately. The transfer of a portion of a mix quota to a frozen products quota is not permissible except on petition from a customer previously purchasing mix who may desire to purchase the frozen product. (4-16-43)

(b) (4) PRODUCTION OF FROZEN DAIRY FOODS OR MIXES OTHER THAN ICE CREAM

In determining the amount of milk solids that may be used under Section (b) (4) of the Order, it is clear in the Order that 10 percent by weight of the milk solids available to processors refers to 10 percent as applied to the amount resulting from the application of 65 percent to the amount of milk solids utilized in the production of frozen dairy foods or mix during the corresponding portion of the base period. It should be kept in mind, however, that "100 percent by weight of the amount of milk solids used for the production of such products in the corresponding portion of the base period" applies only if such 100 percent does not exceed 65 percent of the total milk solids used during the corresponding portion of the base period. (4-16-43)

(c) MILITARY AGENCIES

Requirements relating to Military Exemption.

Frozen dairy foods or mix manufactured for, delivered to and billed directly to the Quartermaster Corps of the Army, the Bureau of Supply and Accounts of the Navy, the U. S. Army Post Exchanges, U. S. Navy Ship's Service Departments and U. S. Marine Corps Post Exchanges only, are exempt from the quota restrictions of the Order. (4-16-43)

ORDER
REFERENCE

(c) Cont'd. Mix Sold for Use of Military Agencies

Mix sold by one processor to another processor who in turn manufactures frozen dairy foods which are sold to the military agencies indicated in paragraph (c) of Section (b)(4) of the Order, is quota exempt. Ice cream or other frozen dairy foods sold by a processor to a dealer who in turn sells to the designated military agencies are not exempt. To be quota exempt frozen dairy foods must be sold directly by the processor to the proper military agency. (4-16-43)

(d) EQUITABLE DISTRIBUTION

Equitable Distribution Interpreted

The statement that each processor shall make equitable distribution among those persons supplied by such processor during the base period, of the frozen dairy foods and mix manufactured by such processor, has required a more precise meaning than the statement itself implies. In other words, some processors are not clear as to whether they are required to serve accounts which they had, for example, in March and April of 1942, if they are no longer serving those accounts. In all instances to date, this section of the Order has been interpreted to the effect that if a processor was serving an account during the latter part of the base period (Eg. September, October and November, or even November) it is his obligation to continue to serve that account at the present time. An exception to this interpretation, however, would be in the event that a processor was serving an account which operated regularly during a portion of the year (Eg. Summer months only) in which case the obligation of the processor would be to serve him during corresponding months for the duration of the Order. (4-16-43)

Where Dealer Closes a Retail Store

Where a processor is serving several retail stores and one is closed, it is considered to be equitable distribution for that processor to distribute the amount of frozen dairy foods previously taken by that store, among the other retail stores served until the quota formerly distributed to the retail stores which closed is requested for use again at that location. The same principle applies where a processor discontinues sale to a wholesale account. (4-16-43)

Customers Served during Base Period now out of Business

If some customers served by a processor during the base period are now out of business or are not now using Frozen Dairy Foods or Mix, the processor may produce up to his full quota allotment, distributing his products to his regular trade or to new customers. In no case, however, is the processor permitted to solicit new business or to favor particular purchasers to the detriment of persons served during the base period. (2-16-43)

ORDER
REFERENCE

(d) Cont'd. Finding New Customers to Replace Lost Customers

The processor who has lost customers is not prevented from finding new customers providing they are served on an equitable basis with old customers. Provisions of the order with respect to quantities of milk solids used must be observed of course. (4-10-43)

" Compelling a Processor to Serve an Account

A processor may not be compelled to serve an account for which he can establish a good reason for not serving. However, if the person having that account petitions the Administrator to have his account transferred to another processor, such a petition would be considered favorably. (3-3-43)

" Basis of Customer's Quota

A customer's quota is based upon his purchases during the base period, and not on his sales during that period. (3-3-43)

GENERAL INTERPRETATIONS

QUOTAS

Quotas cannot be bought or sold

In regard to quotas and transfers of quotas, it is held that there should be no "traffic" in quotas. That is, quotas should not be considered to be a commodity to be bought or sold in the market. Under no circumstances is the payment of a consideration for a quota, as such, permissible. (4-16-43)

Transfer of Quota to New Owner of the Business

In instances where a business is purchased in its entirety, it has been held that on certification that the former owner will no longer use the quota to which he otherwise would be entitled, that such quota may be transferred to the new owner of the business, provided substantially the same customers are to be served. (4-16-43)

Transfer of Quotas from one Mix Supplier to Another

In instances where a supplier has been serving an account and it is established that there is a good reason for transferring the quota for that account, (such as delivery difficulties under present condition) it has been held that on agreement among the three parties involved, the quota in question may be transferred to the new supplier provided the former supplier reduces his quota by a corresponding amount and furnishes the administrator with a statement to that effect. (4-16-43)

Establishment of Freezing Quotas

In instances where a processor with freezing operations only has not been in business during the entire base period and has applied for a quota implying if not directly petitioning for an increase in the use of milk solids, it has been held that where no increase in the use of milk solids appears justified, in order to prevent hardship which might be caused by the applicant having to suspend operations for a part of the year, he may be allowed a "freezing quota" on condition that he obtain the mix needed for such freezing operations from within the already established mix manufacturing quota of another processor. (4-16-43)

INVENTORIES

Inventories of frozen dairy foods and mix may be carried over from one allocation period to another but in no event may processors anticipate utilization of milk solids from the next month's quota. In instances where the sales of quota exempt products exceed the production of same during a given month the processor may withdraw from his inventory an amount sufficient to meet the requirements for military uses and replace the amount so withdrawn during the next month. (4-16-43)

USE OF COMPETITOR'S CABINETS

Inasmuch as Food Distribution Order No. 8 applies only to the utilization of milk solids in the manufacture of frozen dairy foods or mix, sales of ice cream by dealers to be placed in the competitor's cabinets, is not a matter that comes directly within the scope of the Order but is considered to be a matter to be adjusted by the state officials or by the industry itself. (4-16-43)

TRANSFER OF QUOTAS UNDER FDO 8

Because we receive many requests to transfer milk solids quotas established under the terms and provisions of FDO No. 8, we list below the conditions under which quota transfers may be authorized:

SALE OF BUSINESS

Where a business is sold in its entirety, including all assets, such as equipment, inventory and good will, the quota of the former owner may be transferred to the new owner. The following certifications must be submitted to secure consideration:

- (a) the new owner certifies that he will serve the same customers and area as were served under the previous ownership; and
- (b) the former owner certifies that he is no longer using the quota; that such quota has not been transferred to any other person, and that no further claim will be made to it for the duration of the Order.

The mere purchase of equipment is not considered adequate basis for the transfer of quota.

TRANSFER OF ACCOUNTS

Where the supplier-processor discontinues operations, and his entire quota is not transferred to another person;

or where, to effect economy in operations or for other reasons, a processor wishes to transfer specific frozen dairy foods or mix accounts to another processor;

or where for other reasons a frozen dairy foods or mix account may wish to change to some other processor as his source of supply-

the quotas from the accounts concerned may be transferred to the other processor provided all persons concerned are in agreement.

The former supplier must certify that he will relinquish to the new supplier the portion of this quota based upon the total milk solids used in the manufacture of the frozen dairy foods or mix delivered to the account concerned during each month of the base period.

MIX CUSTOMER WISHES TO RECEIVE FROZEN DAIRY FOODS INSTEAD OF MIX

Where, due to breakdown in equipment, labor shortage, or for other reasons, a freezer operator who purchased mix during the base period wishes to discontinue freezing and desires to purchase frozen dairy foods instead, his freezing quota may be transferred to his supplier (or to another processor of frozen foods), to be used in the manufacture of frozen dairy foods for delivery to him,

provided all parties are in agreement and the former freezer operator certifies that he will not use his freezing quota or make further claim to it for the duration of the Order.

Character of Certifications

The certifications mentioned above need not be notarized, but must be submitted in all instances where provided for, before consideration can be given to the request for transference of a quota.

In addition, if the basic Production Report (December 1, 1941, to November 30, 1942) has not been filed, it must be executed and forwarded with the above information. This basic report should show pounds of milk solids and not merely gallons of mix or ice cream.

Under section (i) in the Order, on Petition for relief from hardship, requests for transfer of quotas should be sent to the Regional Director.

2315 (38)-7

U. S. DEPARTMENT OF AGRICULTURE
FOOD DISTRIBUTION ADMINISTRATION

PRODUCTION REPORT OF FROZEN DAIRY FOODS AND MIX
DECEMBER 1, 1941-NOVEMBER 30, 1942

This report must be filed by each processor of frozen dairy foods and mix as defined in Food Distribution Order No. 8 with the Administrator, FDO-8 United States Department of Agriculture, Washington, C., not later than 15 days after receipt. Persons having multiple plant operations must file this report for each plant. Enclosed is an extra copy of the report form for your own use.

Name of processor _____

Address _____

Location of plant _____

FROZEN DAIRY FOODS AND MIX

Enter below, as classified, the production of dairy foods specified in terms of pounds (or gallons¹) of mix used and the milk-fat, milk solids-not-fat, and total milk solids contained therein for the periods indicated. Where the same product is made with varying composition (e. g., ice cream containing 14 percent, 12 percent, and 10 percent milk-fat), the pounds of milk-fat, milk solids-not-fat, and total milk solids in each should be combined to complete the report.

INVENTORY—JANUARY 31, 1943

PRODUCT	GALLONS ¹	POUNDS	POUNDS FAT	POUNDS MILK SOLIDS- NOT-FAT	PERCENT TOTAL MILK SOLIDS	TOTAL POUNDS MILK SOLIDS
Mix—Ice cream						
Mix—Other frozen dairy foods						
Ice cream (including novelties and ice cream in combination)						
Other frozen dairy foods (including novelties and combinations)						
TOTAL						

¹ Report in gallons only where pounds not available

PRODUCTION REPORT FOR BASE PERIOD

1. It will assist you in completing this report form to read it through, to study carefully the items indicating the information to be reported and to classify and arrange the information respecting your ice cream operations during the base period, before beginning to fill in this report.
2. This is not a report for each grade of product, but a report of the total of all grades.
3. Include in Section A all ice cream, and in Section B all other frozen dairy foods used in novelties and in combination with each other.
4. If processor made no sale to armed forces as defined in Food Distribution Order No. 8, no entry is required in items 3, 4, 5, and 6 in Sections A and B of the report.
5. In reporting pounds of mix made for sale as mix, in item 1, of Section C, report dry ice cream mix on a fluid basis with other ice cream mix.
6. Until further notice the base for your quota is as follows: *Ice Cream*.—See total pounds milk solids in products for civilian use as reported in Section A, item 9. *Other Frozen Dairy Foods*.—See total pounds milk solids in products for civilian use as reported in Section B, item 9. *Mix for Sale as Mix*.—See total pounds milk solids in mix, for civilian use as reported in Section C, item 9. As the order is written, your quota is 65 percent of the milk solids in each of the three items indicated above, except for other frozen dairy foods, in which case you may utilize up to 10 percent of the total milk solids available to you under the provisions of (b) (1) of the order or 100 percent of the milk solids used in the production of such products during the corresponding month of the base period providing that amount does not exceed 65 percent of the total milk solids used during the base period. The two quotas, namely (1) the quota of solids used in ice cream and other frozen dairy foods, and (2) the quota of solids used in mix for sale as mix must be kept separate.
7. It is suggested that you complete the enclosed extra copy of this report form and keep it in your file for your future use and reference.

Section A - ICE CREAM (INCLUDE ICE CREAM IN NOVELTIES AND IN COMBINATION)

(Ice cream means any frozen dairy food containing 8 per centum or more (by weight) of milk-fat included in 14 per centum or more (by weight) of total milk solids)

Section B.—OTHER FROZEN DAIRY FOODS (INCLUDE OTHER FROZEN DAIRY FOODS IN NOVELTIES AND IN COMBINATION)

(Example: Sherbets, ices, custards, ice milks, and other similar preparations, excluding ice cream and water ices)

Section C.—MIX MADE FOR SALE AS MIX

Any liquid or dried unfrozen preparation (including ice cream mix, ice cream powders, milk ice mix, icemilk mix, milk shake mix, and other similar preparations) for use directly in the freezing of a frozen dairy food

ARMED FORCES TO WHOM FROZEN DAIRY FOODS AND MIX WERE SOLD
DURING BASE PERIOD, AND AMOUNTS SOLD

**NAMES OF PROCESSORS TO WHOM MIX WAS SOLD DURING BASE PERIOD,
AND AMOUNTS SOLD**

Report in gallons only where pounds not available

NOTE.—If additional space is needed--use supplementary sheet.

UNITED STATES DEPARTMENT OF AGRICULTURE
Room 805 New Post Office Bldg.
CHICAGO, ILLINOIS

Budget No. 40-R-537.1
Expires Sept. 30, 1943

General Information for Preparing Dairy Products Reports

A. GENERAL

(1) Manufacturers of dairy products are required to submit monthly reports on production, use, and stocks of dairy products. The United States Department of Agriculture is authorized to obtain these reports by Conservation Order DA-1, Food Distribution Orders 2, 8, and 15. The Office of Price Administration is authorized by Public Law 421, 77th Congress, Section 202, to obtain such information as deemed necessary to effectuate the Emergency Price Control Act of 1942.

(2) **One copy of each report is to be completed (in ink or typed) and mailed not later than the 10th of each month (unless otherwise authorized) to the United States Department of Agriculture, P. O. Box 6910-A, Chicago, Illinois.**

(3) Each owner of one or more dairy products plants shall report, on forms that are appropriate for the respective types of plants (as described in Section B below), the amounts of dairy products produced, purchased, sold, owned, possessed or controlled by him. Each month the appropriate report form (or forms) for each type of plant will be sent to the respective plants. (Only one copy will be sent unless a request is made for an additional copy.) Failure to receive a report form, however, releases no one from the responsibility of submitting it. Write immediately to the United States Department of Agriculture, P. O. Box 6910-A, Chicago, Illinois, for copies of any reports required but not received. An addressed envelope, which requires postage, is enclosed for returning the reports. All reports required to be submitted shall be returned in one envelope, although the report forms may have been sent to the respective plants in separate envelopes.

B. REPORTING FORMS TO BE USED AND TYPES OF PRODUCTS TO BE REPORTED IN EACH FORM

The following forms are to be used:

(1) Dairy Products Report No. 1: "USDA Form No. C.E.9-119, Dairy Products Report No. 1" (this form). The data required on this form are needed by the Office of Price Administration for the administration of its rationing program of dairy products and by the Food Distribution Administration of the United States Department of Agriculture for its set-aside orders on dairy products for Lend-Lease purposes and for the Armed Forces of the United States. **This form must be submitted by or for each plant manufacturing any of the products listed hereon.**

(2) Dairy Products Report No. 2: "USDA Form No. C.E.9-120." The special information required on this form is needed by the Food Distribution Administration for its set-aside order on butter. **This form must be submitted by or for each plant making butter (except as provided in paragraph (5) below).**

(3) Dairy Products Report No. 3: "USDA Form No. C.E.9-121." The special information required on this form is needed by the Food Distribution Administration for its set-aside order on American cheddar cheese made from whole milk. **This form must be submitted by or for each plant making American cheddar cheese from whole milk (except as provided in paragraph (5) below).**

(4) Dairy Products Report No. 4: "USDA Form No. C.E.9-122." The special information required on this form is needed by the Food Distribution Administration for its limitation order on ice cream. **This form must be submitted by or for each plant making ice cream and other frozen dairy foods.**

(5) Special forms of Dairy Products Reports Nos. 2 and 3 will be provided for use of owners of more than one butter plant or more than one cheese plant who elect to combine the required data for all such establishments owned.

DETAILED INSTRUCTIONS FOR FILLING OUT THIS FORM (DAIRY PRODUCTS REPORT No. 1)

Section A: Columns A, B, and C—Report receipts, if any, of all fluid dairy products for the month, entering in the appropriate columns the quantity received, average butterfat test of such receipts, and the total butterfat content.

Items 4 and 5—Report receipts, if any, of the concentrated milks used to finish the condensing operation. Concentrated milks used for other purposes are entered in Section C.

Item 6—Enter the total of all other fluid dairy products received but not specified in items 1 through 5.

Section B: Column A—Do not include sales which remain unshipped at the close of the month.

Items 6 and 7—Include whey cream obtained as a by-product of cheese production, items 3 through 17, Section C.

Items 8 and 9—The amount of estimated losses should be the usual loss to be expected under the type of operations you are conducting. Any destruction or discarding of any of the products shall be included.

Section C: Columns C and D—Fill out every blank space in these columns by entering the amount or writing in the word "none".

Columns E and F—Enter in Column E the amount of manufactured products purchased during the month. Enter in Column F the amount of manufactured products used within your plant in further processing or in the manufacture of other products.

Example:—If you purchased dry skim milk (spray) enter the quantity in item 27 under Column E. If you used some of it in manufacturing other dairy products, combine the totals used and enter in item 27 under Column F.

Column G—Enter the amount of the products which left your plant during the month as sales, shipments, or transfers to others.

Column H—Enter the amount of the products on hand at the beginning and at the close of the month for which the report is being made. Include as stocks on hand goods which are sold but remain unshipped at the close of the month. Report stocks at this plant and also stocks owned but stored elsewhere, including stocks in rented rooms of licensed warehouses, but excluding stocks in public rooms of licensed warehouses.

Item 17—Combine and enter the total of all other cheeses manufactured but not named in this section.

Item 40—Name any products other than those specified in items 35 through 39 and combine their total for this entry.

Item 47—Combine and enter the total of all other frozen dairy foods manufactured but not named in this section.

Dairy Products Report No. 1 AUGUST—1943

Do not write in this space

CERTIFICATION

CERTIFICATION
I hereby certify that the information contained in this report is complete and accurate to the best of my knowledge and that I am authorized to make this report for and on behalf of _____.

(Firm Name)

(Location of Plant)

(Signature of authorized official)

(Title)

(Date)

UNITED STATES DEPARTMENT OF AGRICULTURE

ROOM 805 NEW POST OFFICE BLDG.

CHICAGO, ILL.

DAIRY PRODUCTS REPORT NO. 4—ICE CREAM

CALENDAR MONTH OF NOVEMBER, 1943

This report is required of all manufacturers of mix or processors of frozen dairy foods who manufacture all or any part of their own mix under Food Distribution Order No. 8. Study carefully the form below, and also read the instructions on the reverse side before beginning to fill in the information required.

PRODUCTS	QUANTITY		MILK SOLIDS CONTENT		
	(1) GALS.	(2) LBS.	(3) TOTAL MILK SOLIDS LBS.	(4) MILK FAT LBS.	(5) MILK SOLIDS NOT FAT LBS.
1 Ice Cream Mix (Manufactured).....					
2 Other Mixes (Manufactured).....					
MIX PURCHASED					
3 Ice Cream Mix and Other Mix Purchased (List sources on reverse side this form).....					
MIX SOLD					
4 Ice cream Mix and Other Mix Sold to Quota Exempt Agencies.....				XXX	XXX
5 Ice Cream Mix and Other Mix Sold to Others (List accounts supplied on reverse side this form).....				XXXX	XXXX
ICE CREAM AND OTHER DAIRY FOODS FROZEN					
6 Ice Cream Frozen (Include Novelties, Specialties, Combinations, etc.).....				XXXX	XXXX
7 Other Frozen Dairy Foods such as Sherbets, Frozen Custards, Frozen Malted, etc. (Include novelties, Specialties, combinations, etc.).....				XXXX	XXXX
8 TOTAL (Items 6 and 7).....				XXXX	XXXX
9 Sales included in Item 8 to Quota Exempt Agencies.....				XXXX	XXXX
10 Production to be Charged to Quota (Item 8 minus Item 9).....				XXXX	XXXX

SALES OF FROZEN DAIRY FOODS OR MIX TO QUOTA EXEMPT AGENCIES (Items 4 and 9)

I hereby certify that the information contained in this report is complete and correct to the best of my knowledge and that I am authorized to make this report for and on behalf of

(Firin Name)

(Signature of authorized official)

(Title)

(Date)

General Instructions

A. This report (in ink or typed) must be filed by each processor of frozen dairy foods and mix as defined in Food Distribution Order No. 8 and mailed not later than the 10th of each month (unless otherwise authorized) to the U. S. Department of Agriculture, (P. O. Box 6910-A, Chicago, Illinois).

B. Enter in the proper column and space the production, purchases, sales, etc. of the various products specified. Where the same product of varying composition is made, purchased, sold, or used (e.g. ice cream containing 14 percent, 12 percent and 10 percent milk fat) the pounds of milk fat, milk solids not fat, and total milk solids in each should be combined to complete the report.

C. Where space is provided to report both gallons and pounds, fill in both spaces if possible; if pounds not available, report in gallons.

D. Where "xxxx" appear in a column no entry is required. All blank spaces should be filled. If none, then write "None".

E. Sales to Quota Exempt Agencies reported under Items 4 and 9, must in addition be listed separately in the space provided for that purpose; the total so reported must check with the totals reported in Items 4 and 9. Sales to Quota Exempt Agencies must include only frozen dairy foods and mix purchased and paid for by the United States Army Quartermaster Corps, United States Navy Bureau of Supplies and Accounts, United States Navy Ship's Service Departments, United States Army and United States Marine Corps Post Exchanges, persons feeding personnel of the Armed Forces on contract and ship operators.

F. If you use dried mix, convert to liquid weights and measurements.

G. Report below.

MIX PURCHASED FROM—(Item 3)

MIX SOLD TO—(Item 5)

If additional space is needed use supplementary sheets.

QUESTIONS AND ANSWERS

FDO 8 - FROZEN DAIRY FOODS AND MIX

QUESTIONS AND ANSWERS

FDO 8 - FROZEN DAIRY FOODS AND MIX

ORDER
REFERENCE

(a) (4) Is a product containing 6 percent milk fat in 1½ percent total milk solids considered as ice cream or as a frozen dairy food other than ice cream?

A. It is not ice cream but a frozen dairy food other than ice cream. Ice cream as defined in the order means any frozen dairy food containing 8 per cent or more (by weight) of total milk fat included in 1½ per cent or more (by weight) of total milk solids.

(b) (1) Can a person purchasing a product containing 12 per cent fat and 10 per cent solids-not-fat by weight have his supplier furnish him with a product consisting of 10 per cent fat and 8 per cent solids-not-fat by weight and give him increased gallonage equivalent to 65 per cent of his total milk solids during his base period?

A. Yes. It is the total milk solids that are restricted to 65 per cent of the total milk solids used during the base period.

(b) (4) Section 1401.31 (b)(4) provides that no person shall use in the production of such products more than 10 per cent (by weight) of the total milk solids available to him or more than the amount (by weight) of milk solids used by the respective processor for the production of such products in the corresponding portion of the base period within and subject to the limitations imposed by (b) (1) of FDO 8? Does this allow the processor to select, if he wishes, whichever of these two alternatives was the greater?

A. Yes.

(c) Does military exemption include U.S.O. Service Clubs, civilian hospitals, defense plants, or restaurants feeding soldiers?

A. No. Only those sales that are made through the authorized purchasing agents of the Army and Navy, including Post Exchanges and Ship's Service, War Shipping Administration and Veterans Administration, are exempt.

(c) Are sales to personnel of naval and air training schools exempt under this military provision?

A. They are not exempt unless the purchases are made through the regular purchasing agency of the United States Army or United States Navy.

ORDER
REFERENCE

(d) Under the provisions of the Order, can an ice cream manufacturer stop serving a dealer?

A. Yes, providing the name of the account, the gallonage for the base period, and the reasons for discontinuing the account are furnished in writing to the Administrator, at least 10 days before service is discontinued. The request for discontinued service, however, may be disallowed by the Administrator in the event that it was not in accord with Section (d) of the Order relating to equitable distribution.

(d) Will the processor terminating the account lose the quota of that account?

A. Not unless another processor assumes the account, at which time, upon written petition under Paragraph (i) of the Order, the quota may be transferred upon approval of the Administrator.

(d) Can an ice cream manufacturer discontinue the manufacture of ice cream or frozen dairy foods other than ice cream in certain forms even if some of his dealers may be handling these items exclusively?

A. Provided that he offers his customers an equivalent amount of total milk solids in the form of some other frozen dairy food.

(i) If compliance with this Order works an unreasonable or exceptional hardship upon a processor, what steps may be taken to obtain relief from any provision of this Order?

A. He may make a written appeal stating all pertinent facts to Food Distribution Administration, Washington, D. C. Ref. FD-8.

(i) What provision is made for establishing quotas for processors who began the manufacture of frozen dairy foods after the beginning of the base period?

A. Such processors can apply to the Administrator under the relief from hardship provision setting forth in full reasons why he should be given a quota.

(j) To whom should communications in regard to Food Distribution Order No. 8 be addressed?

A. All communications regarding Food Distribution Order No. 8 shall be addressed to the Regional Director, Food Distribution Administration, War Food Administration, 5 South Wabash Avenue, Chicago, Illinois.

3-Questions and Answers

ORDER REFERENCE

General What is the primary objective of the Order?

A. To conserve milk solids-not-fat and milk fat used in ice cream.

" Why is this necessary?

A. Because of the shortage of those products in meeting the needs for **dairy** products for military and Lend-Lease purposes as well as for civilian consumption.

" Which of the two ingredients of ice cream indicated above is it considered more important to conserve?

A. Milk solids-not-fat.

" Why is this true?

A. Because they represent the principal available source of riboflavin and calcium which are very important in the human diet.

" Is Food Distribution Order No. 8 the only program affecting the dairy industry?

A. No, it is only one of several programs proposed or in operation to meet the present shortage of dairy products.

" What period of time is covered by the allocation period provided for in the Order?

A. The allocation period is on the basis of each calendar month, the first allocation period being the month of February.

" In establishing the portion of the base period applicable to the allocation period, is the corresponding month in the base period used?

A. Yes.

" A manufacturer of ice cream and ice cream mix establishes quotas for ice cream and ice cream mix customers in accordance with Food Distribution Order No. 8. At the end of the allocation period he discovers that he has not sold his full quota of mix. Can he freeze into ice cream the mix that was intended for his mix accounts?

A. No.

ORDER
REFERENCE

General. If an ice cream plant is purchased by another processor, is the quota of milk-solids automatically transferred to the purchaser?

A. Transfers of quotas can be made only upon approval of written petition to the Administrator.

" Can inventories of frozen dairy foods and mix be carried over from one allocation period to another?

A. Yes.

" To which quota of the 2 months in question would the solids in such inventories apply?

A. The first of the 2 months in question.

" May a processor manufacture part of his next month's quota in the preceding month?

A. No.

" Does the term milk solids-not-fat include the solids of buttermilk or whey?

A. Yes.

" Who is the Administrator of this Order and what is his address?

A. W. Bruce Silcox, Dairy and Poultry Branch, Food Distribution Administration, United States Department of Agriculture, Room 2753, Telephone Republic 4142, Extension 5347, Washington, D. C.

RECORDS TO BE EXAMINED IN INVESTIGATIONS

WHEN CHECKING COMPLIANCE WITH FDO 8

(For use of investigators of
Compliance Division only)

ORDER
REFERENCE

(f) Ice Cream Manufacturers

1. Formula used in the production of ice cream mix from which the ice cream is made
2. Number or runs made during each day
3. Weight of the ice cream per gallon
4. Percentage of over-run
5. Amounts of ice cream sold and to whom sold
 - a. Records of sales made to designated governmental agencies and military establishments as defined by FDO 8 are to be kept separately.

(f) Ice Cream Mix Manufacturers

1. Weight, butter, fat content and cost (excluding expense items) of milk used in the processing of ice cream mix
2. Weight, butter fat content and cost (excluding expense items) of cream used in the processing of ice cream mix
3. Weight, butter fat content and cost (excluding expense items) of evaporated or condensed milk used in the processing of ice cream mix
4. Total weight of ice cream mix per gallon
5. Formula used in preparing the mix processed into frozen dairy foods.
6. Amount of mix made daily
 - a. If more than one formula is used, daily record of the amounts of ice cream mix made under each formula should be kept
7. Amounts of ice cream mix sold and to whom sold
 - a. Sales to governmental agencies and military establishments as defined by FDO 8 are to be kept separately.

INFORMATION TO BE ASCERTAINED THROUGH
INVESTIGATIONS UNDER FDO-8

(For use of Investigators of Compliance Division only)

ORDER
REFERENCE

For Educational Adjustment

Violations by processors of ice cream and ice cream mix

(b) (1) 1. Total weight of milk solids used in the production of ice cream for each month of the basic period corresponding to the months to be covered by the investigation.

(b) (1) 2. Total weight of milk solids used in the production of ice cream during each month covered by the investigation.

(b) (2) 3. Weight of the ice cream per gallon (or mix).

(b) (2) & (b) (3) 4. Formula used in the production of ice cream or mix.

(b) (3) 5. Butter fat content of the ice cream or mix.

(b) (3) 6. Serum solid content of the ice cream.

Violations by processors of frozen dairy foods and mix other than ice cream or ice cream mix

(b) (4) 1. Total weight of milk solids used in the production of all frozen dairy foods or mix for each month covered by the investigation.

(b) (4) 2. Total amount of milk solids used in the production of frozen dairy foods and mix other than ice cream or ice cream mix during each month covered by the investigation.

(b) (4) 3. Total amount of milk solids used in the production of frozen dairy foods and mix other than ice cream or ice cream mix during each month of the basic period corresponding with the months covered by the investigation.

(b) (2) 4. Weight of the product per gallon.

(b) (2) 5. Butter fat content of the product.

(b) (2) 6. Serum solid content of the product.

2-Information to be ascertained through investigations under FDO-8

ORDER
REFERENCE

For Administrative Action at Regional Level

Violations by processors of ice cream or ice cream mix

(b) (1), 1. Same as paragraphs 1, 2, 3, 4, 5 and 6 under "For Educational Adjustment," "Violations by processors of ice cream and ice cream mix."

(b) (2),

(b) (3) &

(b) (4) 2. Statement from alleged violator indicating that the amounts of milk solids used by him as determined by the investigation are accurate.

3. Statement from alleged violator to the effect that he was aware that he was violating the Order.

4. Statements from all employees of the alleged violator pertaining to the violation committed.

5. Any evidence indicating a willful violation.

Violations by processors of frozen dairy foods and mix other than ice cream or ice cream mix

(b) (4) 1. Same as paragraphs 1, 2, 3, 4, 5 and 6 under "For Educational Adjustment", "Violations by processors of frozen dairy foods and mix other than ice cream or ice cream mix."

(b) (2) 2. Same as paragraphs 2, 3, 4 and 5 under "For Administrative Action at Regional Level," "Violations by processors of ice cream or ice cream mix."

General Information

1. History of past compliance with FDO 8 or any other Food Distribution Order.
2. Any factual evidence indicating the alleged violator's attitude or cooperation.
3. Deliveries of frozen dairy foods and mix to a governmental agency as defined by FDO 8 are to be listed.

PROCEDURE ON VIOLATIONS AND PENALTIES

FDO 8 - FROZEN DAIRY FOODS AND MIX

1. Educational Effort

Every effort is made through educational and persuasive means to secure compliance with the Order. This effort is cooperative between FDA representatives and the associations and members of the Industry. The aim of educational methods, and particularly thereunder the vital exercise of action by Local Industry Committees, is to reduce the use by FDA of formal legal or administrative actions to a minimum; and in such minimum to secure, as a result, prompt and adequate justice under the Order.

2. First Offenders

First offenders whose violations are minor, and especially where accompanied by ignorance or misunderstanding of the Order, are usually dealt with, where necessary, by the filing with them of an official warning letter. Such action, among other things, lays a basis for effective criminal action if thereafter the violation should be repeated, since such reprated practice would constitute evidence of a wilful and deliberate intent to violate.

3. Continuing Offenders

Violations in other groups than first offenders, or of minor character of which fail of treatment through the educational or persuasive approach, are handled through:

(a) Civil action, such as by injunction; or

(b) Criminal action under appropriate Federal statutes.

Civil and criminal action are proceeded by a formal investigation or audit in order to determine the basis for such action.

(c) Administrative action: Where deemed appropriate by the War Food Administration, and where civil or criminal action does not seem to be appropriate, handling may be by administrative action. This means that a statement of charges will be filed with the violator, and he will be given an opportunity to answer or deny the charges at a public hearing. Following the hearing, the presiding official will transmit his report and recommendation to the War Food Administrator, Washington, D.C. The latter will make his final determination as to what action is to be taken or what sanctions are to be imposed. Such sanctions may include temporary suspension of all or a part of the business; or a cancellation of war orders; or suspension in the supplying of essential supplies or materials; or limiting the use of allocated materials; or in depriving the violator of certain collateral assistance in the obtaining of equipment.



WAR FOOD ADMINISTRATION Compliance
Food Distribution Administration
(For use of Midwest Region Non-Compliance...
Investigators of 5 South Wabash Avenue
Compliance Division Chicago 3, Illinois Date 194
only.)

REPORT OF SPOT CHECK OF PROCESSOR OF FROZEN DAIRY FOODS AND/OR MIX

FOOD DISTRIBUTION ORDER NO. 8

FIRM NAME _____

ADDRESS _____ CITY _____ COUNTY _____ STATE _____

TYPE OF OWNERSHIP _____

(indicate if Individual, Corporation or Partnership.
Name all Partners)

PERSON(S) INTERVIEWED _____ TITLE _____

_____ TITLE _____

_____ TITLE _____

1. Has a copy of Food Distribution Order No. 8 been received? _____ Source _____

2. Understanding of Order _____ Attitude _____

3. Total Milk Solids Quota - (b) (1)
Does the total milk solids (excluding exempt sales) used during the months
since February 1, 1943, come within the 65% amount of milk solids used in
the corresponding months in 1942? YES NO

(a) If not, list the months in which the total pounds of milk solids
used were in excess of the quota and the excess amounts in each of
such months.

4. Total Milk Solids Content - (b) (2)
Does the total milk solids content of frozen dairy foods, manufactured,
sold or delivered by the processor exceed 22 percentum (by weight) of the
total weight of the product? YES NO

5. Milk Solid Not Fat Content - (b) (3)
Does the milk solid not fat content of ice cream or ice cream mix
manufactured, sold or delivered by this processor exceed 80 percentum
by weight of the milk fat content of such products?

Ice Cream YES NO

Mix Yes NO

6. Total Milk Solids, Frozen Dairy Foods (other than Ice Cream or Mix)(b) (4)
Is the processor, in the manufacturing of frozen dairy foods other than ice cream and mixes for frozen dairy foods other than ice cream utilizing, not more than 10 percentun (by weight) of the 65% of total milk solids, its quota, or the amount (by weight) of milk solids used in such products in the corresponding portion of the base period within the restrictions imposed by section 1401.31 (b) (1)? YES NO

7. Equitable Distribution - (d)
Is this processor making equitable distribution of its products among those persons supplied by it during the base period? YES NO

8. Option with respect to multiple Plant Operations - (e)
If this processor has multiple plant operations, has approval from the Director been secured to consider each plant separately in the application of the provisions of the Order? YES NO

9. Records and Reports - (f)
(a) Is this processor maintaining records? YES NO
(b) Have you checked any records of this processor, and if so, what types and for what periods of time? YES NO

INTERVIEWER'S RECOMMENDATION:

NO INVESTIGATION

INVESTIGATION

Interviewer

Title

Date _____ 194 _____

BRIEF BACKGROUND ON FOOD ORDERS

Note: This material is designed to be helpful to FDA representatives in explaining this Order to groups and individuals in the Frozen Dairy Foods Industry. A timely explanation will aid in getting appreciation of the purposes of the Order among those affected by it. Appreciation and understanding will contribute toward increased cooperative compliance.

I. General Information

(as applied to all Food Orders)

The Food Distribution Administration - as a part of the War Food Administration of the Department of Agriculture - was created to aid in attaining maximum conservation and preservation of foods and the equitable distribution of our entire national food supply. This is a basic and necessary part of our war effort. The Food Distribution Administration functions primarily in connection with growers, processors and distributors of foods and food products.

Factors necessitating distribution regulation:

Although America is producing more food than ever before in its history, the Food Distribution Administration is made necessary because of numerous factors, among which are:

1. Immensity and variety of requirements for our armed forces;
2. Necessity for adequately maintaining immediate and anticipated food supplies on a world-wide scale; the army frequently buys three months in advance for soldiers and sailors in the United States, and eight months in advance for those abroad;
3. Dislocations and limitations in railroad, shipping and other transportation, and in warehousing facilities;
4. The increasing needs for Lend-Lease, Red Cross and rehabilitation aids;
5. Vastly increased buying power of United States civilians, thus bringing greater demands into our grocery stores and butcher shops;
6. Changes and adjustments because of weather conditions and other unpredictable influences;
7. The underlying necessity for avoidance of all food waste, and for obtaining maximum use of all our foods and food values everywhere.

2-Brief Background on Food Orders

Food Allocations:

Our overall food supply is periodically estimated, adjusted and allocated by a joint Board at Washington, essentially in the Order below indicated, to meet the needs of:

1. Our armed forces at home and abroad;
2. Our civilian requirements throughout the nation;
3. Our Lend-Lease commitments - to better enable soldiers of our Allies to conduct a winning fight;
4. Red Cross and rehabilitation aids in liberated countries;
5. Some economic exchange of foods and goods with friendly nations that can provide needed foods (such as coffee) and goods (such as rubber) which we do not produce.

In all of these phases, it is literally true that our "Food Fights for Freedom."

WHAT FDO 8 AIMS TO ACCOMPLISH

Meet War Needs and Essential Civilian Requirements

FDO 8 is one of a series of actions being taken to assure an adequate supply and efficient distribution of the dairy products most needed to meet war and essential civilian requirements.

The milk saved from ice cream will be available for consumption as fluid milk or processing into milk powder, cheese, butter, or other dairy products now in great demand by the Armed Forces, civilians, and Allied Nations. The order will result in saving enough milk, it is estimated, to make 97,500,000 pounds of butter and 68,000,000 pounds of dry skim milk a year.

Encouragement of Frozen Dairy Foods other than Ice Cream

Processors may utilize for the production of frozen dairy foods other than ice cream (sherbets, ices, etc.) up to 10 percent of the quota of total milk solids or the same amount as they used during the base period, whichever is higher.

This provision is intended to permit greater production of those products requiring relatively little milk solids, particularly milk fat. Reports indicate that on the average manufacturers have used less than 5 percent of their total milk solids for making sherbets, ices, and similar products.

This provision, together with the limitation on the total milk solids content of ice cream, will permit the production of a relatively greater quantity of frozen dairy foods for civilian use from the restricted volume of milk ingredients. It is expected that this in turn will reduce the need for voluntary rationing to dealers and consumers by processors.

Adequate Supply for the Armed Forces

To provide an adequate supply of ice cream and other frozen dairy foods for the armed forces, the order exempts deliveries of those products or mixes to the Army or Navy, including the Army and Marine Post Exchanges and the U. S. Navy Ship Service Departments, from the quotas on total milk solids. Ice cream made for the services, however, may not exceed the limits set on total milk solids content and the ratio of eight parts of milk solids-not-fat to 10 parts of milk fat.

Diversion of some Milk Nutrients into more Essential War Foods

Production of ice cream reached an all-time peak of approximately 459 million gallons in 1942, compared with a production of 380 million gallons in 1941 and 282 million gallons in 1938. Consumption has moved up from an average of slightly more than 2 gallons per capita in 1938 to more than 3 gallons per person last year. During that period, production of milk for human use increased about 13 percent.

As a result of the greater consumer demand, the increasing needs of our own fighting men, and the barest needs of the Allies for cheese, butter, and dry skim milk, it is expected that total requirements for milk this year may exceed 140 billion pounds. Production, limited by the number of producing cows available and the shortage of skilled farm help, probably will not exceed the 1943 goal of 122 billion pounds.

Food Distribution Order No. 8 is designed to divert the flow of some of the milk nutrients used in ice cream into foods considered more essential for the war.

INDUSTRY COOPERATION

The industries which are affected by food orders are in general desirous of extending full cooperation with the Government toward winning the war on our Food Front. The first step in industry cooperation with the Government is indicated here:

National Industry Advisory Committees

When an industry is to be affected by a food order, the War Food Administration at Washington, appoints representatives as an Industry Food Advisory Committee in connection with the food order. Such Advisory Committees are usually on a nation-wide scale, and representative of every important phase of the industry.

When an order, or any important amendment, is to be drawn up, this National Advisory Committee is consulted as to the purposes to be attained under war necessities and as to how the order can accomplish such purposes.

The purposes include such desirable end-results, within the industry, as:

Elimination of food waste

Best use of foods available from nutritional point of view

Savings of critical war materials

Reduction in manpower

Savings in operating costs

Aiding companies to continue in business

Fair allocations of food ingredients

Thus the industry has a voice in the creation of the order, and likewise in subsequent important amendments. Consequently, the order is based much on the practical experience of the industry itself, and it receives general Advisory Committee approval before it is promulgated.

The National Advisory Committee also cooperates in obtaining understanding of the order and compliance with its provisions.

INDUSTRY STATE AND LOCAL ADVISORY COMMITTEES

In addition to cooperation in the creation of the order which affects an industry, a program is under consideration whereby the industry can render definite and most valuable aid in obtaining understanding of the order and compliance with its provisions among its membership.

This program is to be generally developed through the state associations of the industry, or whatever state or local groups within the industry are available, in cooperation with FDA representatives.

The character of this local cooperation, it is proposed, will be somewhat as outlined below.

Educational meetings

From time to time educational meetings would be arranged for its members in various areas throughout the Region. While the meetings are under the auspices of the state association and industry members, the State and Area FDA Supervisors are to work closely with the industry membership in getting up and in conducting such meetings.

Local Advisory Boards.

One contemplated objective of the first meeting is to have a Local Advisory Board appointed. Such a Local Board would function much as follows:

- (a) furthering local educational efforts;
- (b) furthering area compliance with the Order;
- (c) reporting persistent violators to the Area Supervisor; and
- (d) aiding in developing and maintaining lists of its membership within its area.

Public Understanding

The state and local industry groups would also aid, through local publicity media, in keeping the public advised and developing public morale in support of the Food Front program.

PROGRAM OUTLINE FOR STATE AND AREA MEETINGS

OF AN INDUSTRY UNDER A FOOD ORDER

(Approximately 2 hours)

Chairman: State or Area Supervisor

10 minutes	Purpose of Meeting (The job which the Order has to do, and our experience to date).....	Chairman
10 minutes	Responsibility of the Industry in educational program; the opportunity it offers the Industry.....	Industry leader
25 minutes	Analysis of the provisions of the Order; penalties for violations.....	Order Specialist or other FDA official (with compliance official, if possible)
10 minutes	How to improve compliance.....	Member of the Industry
followed by		
35 minutes	Discussion.....	Led by Member of Industry
15 minutes	Closing What voluntary cooperation can accomplish - contrasted with the effects of wilful violations of the Order.....	Chairman

This Industry leader may be the president or secretary of the local association.

If there is no association, he may be any representative of the Industry.

POINTS ON CONDUCTING INDUSTRY - FDA MEETINGS

1. PREPARATION: Prepare the program thoroughly in advance. Since each meeting is extremely important, try to get the maximum of constructive results. Always avoid a disorganized, casual, or haphazard impression.
2. PURPOSE: Meetings are held to (a) provide information, (b) clear up misunderstandings, (c) develop appreciation, (d) create cooperative effort, (e) obtain willing and complete compliance with the Order.
3. OBJECTIVE: Each meeting should lead to some definite end-result. Get agreement on (a) the desirability of the Order for the war effort and for the Industry; (b) willingness to comply; (c) cooperative aid in getting compliance from all affected by the Order in the area which the meeting covers.

Local Industry Committee: See material in this manual as to Local Industry Advisory Committee.

4. PRESIDING OFFICER: Try to get a recognized leader in the Industry or group, one who is generally well thought of, to preside.
5. ANALYZING THE ORDER: In discussing the Order, cover it in a systematic way. When necessary, go through the restrictions, one by one, and try to cover each restriction completely before going on to the next one.

Discuss each restriction in this sequence; (a) the restriction; (b) official interpretations which apply; (c) reasons for it; (d) necessity for compliance. (The material in this manual is designed to aid you in such discussion.)

6. DISCUSSION: Invite and encourage questions and discussion. Leave no question unanswered. If you cannot answer it, promise to get the answer, and supply it to the person or persons interested, as soon as possible.
7. IMPORTANT POINTS: Often meetings are adjourned without some important points having been presented. Have a list of important points about the Order, particularly as they have local significance, that should be understood by all present. If these points are not raised from the floor, then bring them up yourself, while the Order is being discussed.
8. IMPRESSIVENESS: The meeting should reflect war-effort seriousness of the occasion. Make clear the importance, need, and dignity of Industry efforts in the overall objective. Inject sincere enthusiasm in the proceedings. Point out that violations will be dealt with, as necessary, by Government authorities. Emphasize that where willing compliance is not forthcoming it will be appropriately enforced, but that patriotic voluntary compliance, under Industry auspices, is preferred by the Government.

THE FOOD DISTRIBUTION ADMINISTRATION

General Functions. The general functions of the Food Distribution Administration are to promote the orderly and efficient marketing, processing and distribution of agricultural commodities.

Variety of Activities. For many years FDA has provided through various commodity branches numerous services in marketing, processing, and distribution of food. The nationwide market news service and the administration of marketing agreement programs are important activities of FDA. Through the grading and inspection service, nationwide quality and sanitary standards are established. The FDA also administers 25 market service and regulatory laws.

FDA combines the activities formerly carried on by the Agricultural Marketing Administration, the Sugar Agency, part of the Office of Agricultural War Relations, and the Bureau of Animal Industry, the Food Division, and other food units of the War Production Board, and the nutrition functions of the Office of Defense Health and Welfare Services of the Office of Emergency Management.

Recommending Programs and Policies. In addition to the specific functions formerly performed by these constituent units, the FDA has a general responsibility for recommending to WFA programs and policies for the distribution of the wartime food supply and for carrying out such programs when assigned. These recommendations on wartime food problems include the allocation of available food supplies among armed forces, civilian population and our allies, the development of nutritional standards, and programs for conservation of food supplies, and development of programs designed to bring about economies in distribution of farm products before and after processing. Recommendations are made to WFA on food products most urgently needed, and new or used material needed for food processing to insure adequate processing facilities.

Food Orders. One of the most important wartime jobs of FDA is the issuance and administration of various food orders. These orders are designed to accomplish a number of results such as equitable distribution of limited food supplies to various claimant agencies, provide orderly and efficient marketing under conditions of limited processing facilities, prevent waste in critical supplies, etc.

Aids to Processors and Distributors. FDA helps processors and distributors with their problems. Assists in such matters as priorities for materials, equipment, consults with industry advisory committees and plans programs for the most effective utilization of manpower. It is also the function of the FDA to provide the services concerned with marketing agricultural products, including the job of quickly purchasing hundreds of millions of dollars' worth of food and fiber for the United Nations and Lend-Lease export. It aids the transporting and processing industries and provides price supports which encourage expanded production of commodities required.

As part of a broad nutrition program, FDA sponsors school lunch and low-price-milk programs.

COMPOSITION OF MILK, MIX & ICE CREAM

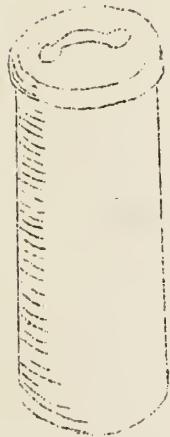
COMPOSITION OF MILK



CASEIN	ALBUMEN	SUGAR	MINERALS	FAT	&	WATER
2.87%	.56%	4.94%	.71%	3.92%		87%

MILK SOLIDS-NOT-FAT
(Serum Solids)

COMPOSITION OF MIX



A SAMPLE FORMULA OF A 10% MIX -
9.1 LBS. PER GAL.

	LBS.	LBS. FAT	LBS. SOLIDS
CREAM	20.22	8.09	1.09
MILK	50.29	2.01	4.35
COND. SKIM	8.54		2.56
SUGAR	20.50		
STABILIZER	.45		
TOTAL	100.00	10.1	8.0

MILK SOLIDS-NOT-FAT
(Serum Solids)

COMPOSITION OF ICE CREAM



A SAMPLE FORMULA OF ICE CREAM -
4.6 LBS. PER GAL.

SAME FORMULA AS MIX
PLUS DESIRED FLAVORING
ADDED DURING FREEZING PROCESS
WHEN AIR IS INCORPORATED

UNITED STATES DEPARTMENT OF AGRICULTURE
FOOD DISTRIBUTION ADMINISTRATION
Midwest Region

VISITATION REPORT

FDO#

TO: FDA STATE SUPERVISOR

State

FDA Area

Date

FIRM NAME

Address

County

PERSON (S) INTERVIEWED

Title (s)

1. Has firm copy of order and amendments _____
2. Does person interviewed understand the important provisions of the order _____
3. Has firm official instructed employees re the order _____
4. From general observation do you feel firm is in compliance, and did you offer suggestions and correct any minor violations _____

5. Has firm any complaints regarding the order, or as to firms which are violating the order in the territory _____

6. If you feel firm is a wilful violator give brief explanation below and describe in detail on form FDA-MW-1 (Revised)

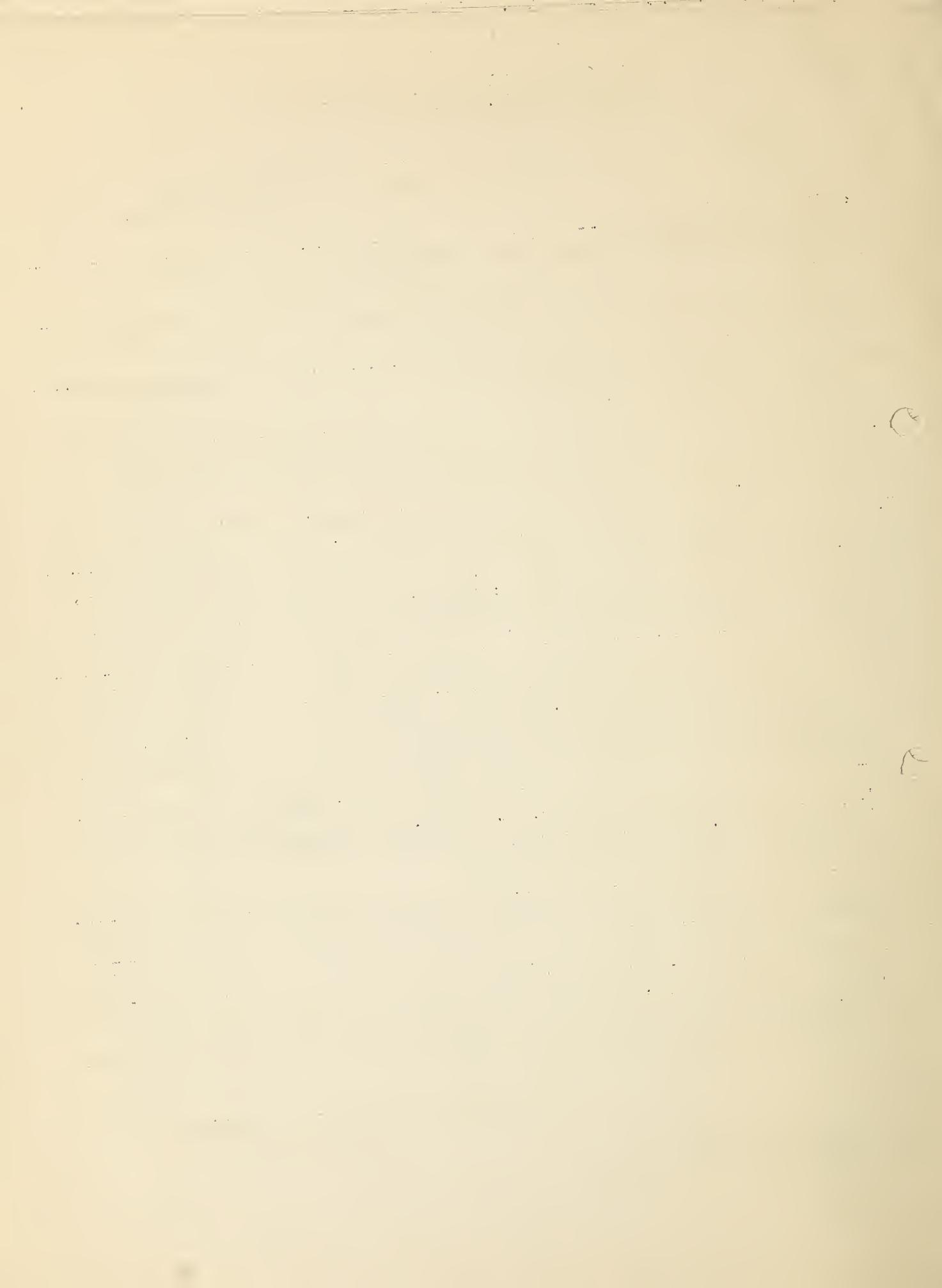
7. Is this an original call or a follow up call; if a follow up call give date of previous call _____

Signature

FDA Representative

One copy for Area file

One copy to State Office



UNITED STATES DEPARTMENT OF AGRICULTURE
FOOD DISTRIBUTION ADMINISTRATION
Midwest RegionGROUP MEETING REPORT

(For General Meetings or for Food Order Advisory Committee Meetings)

TO: FDA STATE SUPERVISOR

Report Date _____

State _____ Area _____

1. Place of Meeting _____ Date of Meeting _____

2. Indicate whether sponsored by FDA or Industry _____

3. Industry Groups Represented _____

4. FDA Representative(s) present _____

5. Total attendance _____ Order discussed _____

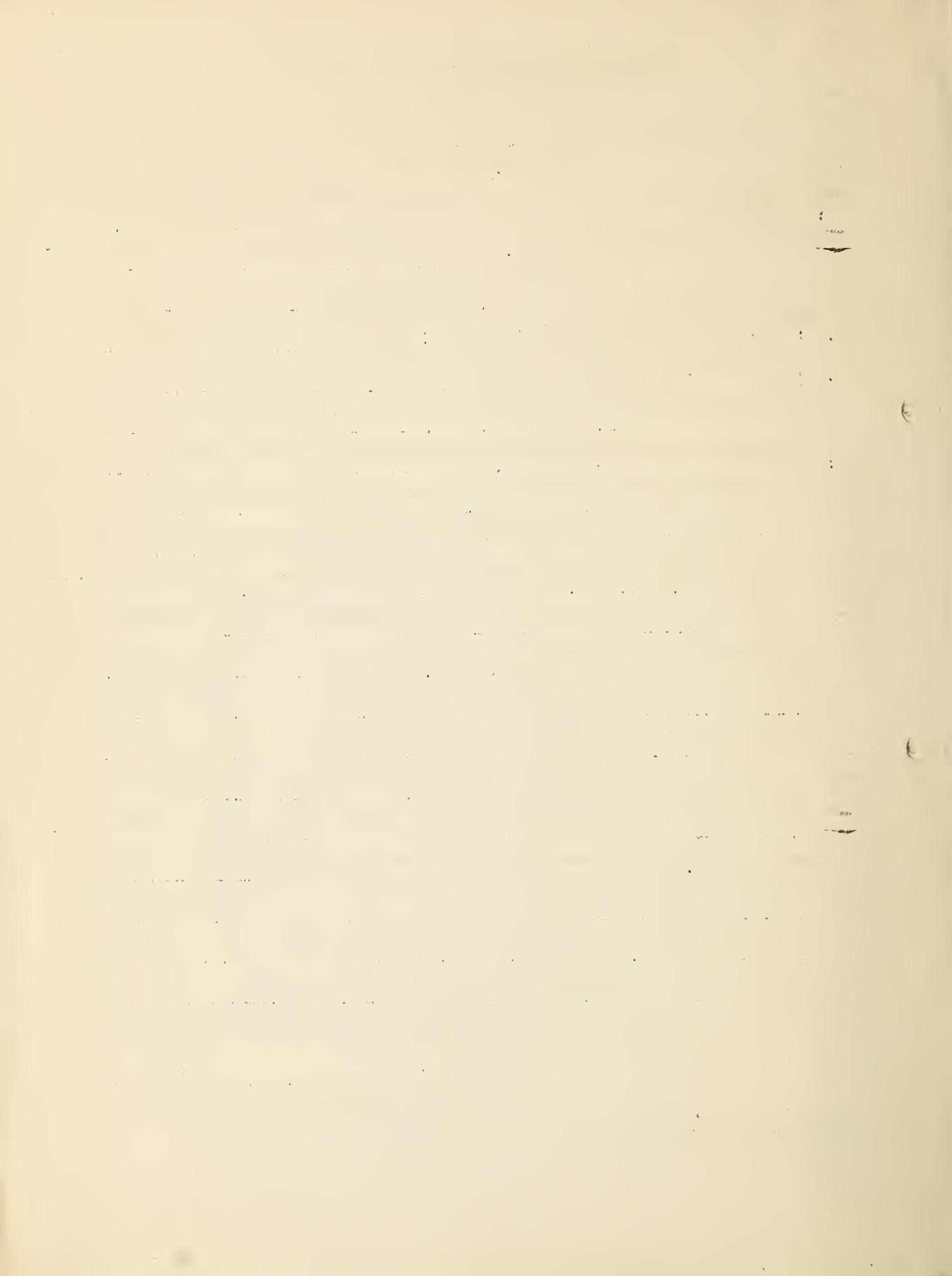
6. Special Compliance Problems developed _____

Solutions indicated _____

7. General Compliance attitude at Meeting _____

8. Suggestions, Recommendations, or Special Comments _____

(Signature) _____
FDA RepresentativeOne copy for Area file
One copy to State Office



FOOD DISTRIBUTION ADMINISTRATION

Midwest Region

EDUCATIONAL-COMPLIANCE ACTIVITIES SUMMARY
(Per Order Per State)

Compiled from Reports
on Industry Meetings
and Visitations

TO: REGIONAL DIRECTOR
Midwest Region

State

Date

LOCAL INDUSTRY ACTIVITY

VISITATIONS

In connection with each Food Order listed, give the number of:

In reporting on Area Industry List, use reverse side.
For Comments to aid Area Compliance, use reverse side.

State Supervisor

AREA INDUSTRY LISTS (If not previously reported)

Food Order	Indicate Lists Now Complete	Indicate Incomplete Lists

COMMENTS TO AID AREA COMPLIANCE (not previously reported)

(What are most important Food Orders in your Areas? What assistance needed in completing area industry lists? Additional assistance desired from Regional or Washington offices? Suggestions on changes in orders, or forms, or on other matters, designed to conserve food, eliminate waste, affect economies, etc.):

WAR FOOD ADMINISTRATION
FOOD DISTRIBUTION ADMINISTRATION
MIDWEST REGIONTO: COMPLIANCE DIVISION
Room 2105, 5 South LaSalle Avenue
Chicago, Illinois

State _____

Area _____

REPORT OF COMPLAINT REFERRED TO REGIONAL OFFICE

Food Order No. _____

Name of Alleged Violator _____ Address _____

Type of Business _____ City _____

Name of Complainant _____ Address _____

City _____

Complainant's Occupation _____ Telephone No. _____

(SEE INSTRUCTIONS ON REVERSE SIDE)

(1) Nature of Violation:

(2) Complaint Substantiated by:

(3) Background of case:

(4) Action taken:

Recommendation: Warning Letter _____ Refer for Investigation _____

Refer for Audit _____

Approved:

Chief, Compliance Division _____

Name _____ Date _____

Title _____

2 copies: Chief, Compliance Division

1 copy: State Supervisor

Approved _____ Date _____

(State Supervisor)

INSTRUCTIONS

- (1) Nature of Violation: Insert complete information relating to the substance of the complaint, which should include place and circumstances of transaction, names and addresses of witnesses, if any, as well as pertinent dates.
- (2) Complaint Substantiated by: Indicate whether complaint is based upon personal observation of complainant, heresay, or other sources. Also indicate if further checking was done by you to further substantiate complaint or to gather additional information in respect thereto. Any correspondence substantiating complaint should be referred to and copies attached to the complaint form.
- (3) Background of Complaint: In this space should be included a history of the efforts made by the state or area office to correct non-compliance and should include pertinent information obtained from spot checks, visitations or other voluntary educational efforts. If oral warnings were previously given, include dates of such warnings and names of persons who gave them. Also include information available with respect to the subject's reputation and character.
- (4) Action Taken: If complaint is of such nature that you feel further checking on your part might jeopardize investigation, so indicate. If after complaint was received a verbal warning was issued, indicate this together with date warning was given and by whom. Indicate any other action taken by you with respect to the complaint received.

Attach copies of all pertinent correspondence.

* * * * *

(Additional information carried over from page 1 to be stated here)

